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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/764,099	01/23/2004	John Wankmueller	AP35673-070457.1674	8243
21003	7590	04/20/2006	EXAMINER	
BAKER & BOTTS 30 ROCKEFELLER PLAZA 44TH FLOOR NEW YORK, NY 10112			LE, UYEN CHAU N	
			ART UNIT	PAPER NUMBER
			2876	

DATE MAILED: 04/20/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

10/764,099

Applicant(s)

WANKMUELLER, JOHN

Examiner

Uyen-Chau N. Le

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 26 January 2006.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-30 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-30 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

## Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

**DETAILED ACTION**

***Prelim. Amdt/Amendment***

1. Receipt is acknowledged of the Amendment filed 26 January 2006.

***Claim Rejections - 35 USC § 102***

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless -

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claims 1-5, 7-13, 15-21 and 23-25 remain rejected under 35 U.S.C. 102(b) as being anticipated by Fromm (US 6,266,640).

Re claims 1-5, 7-13, 15-21 and 23-25: Fromm discloses a method for conducting a secure transaction using voice authentication wherein payment is processed from a payment account comprising: providing a database comprising at least a first voice sample associated with a holder of the payment account (col. 2, line 66 through col. 3, line 7); providing payment account information associated with the payment account, the payment account information to be used for conducting the

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transaction; transmitting an authentication request including the payment account information to an access control server (i.e., voice verification unit 103) (col. 3, lines 8-24); triggering automatically a telephone call to the holder of the payment account; generating a second voice sample by sampling one or more voice characteristics of the holder of the payment account (col. 3, lines 25-32); and using voice authentication technology to compare the first voice sample to the second voice sample to determine whether the transaction is authorized by the holder of the payment account (col. 3, lines 47-52); transmitting an authentication response responsive to the authentication request (col. 3, lines 52-53 and col. 4, lines 34-38); processing payment from the payment account to complete the transaction as a function of the authentication response (col. 4, lines 53+); wherein the payment account information is provided via telephone (col. 4, lines 42+); wherein the payment account information is provided via computer network (col. 3, lines 33-47); wherein the authentication request includes at least a device category data field, an authentication request channel data field, a cardholder phone number data field and a voice channel transfer method data field (col. 3, lines 16-32); determining if the holder participates in voice authentication

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services (col. 3, lines 16-24); prompting the holder for authorization to complete the transaction (col. 3, lines 25-32).

***Claim Rejections - 35 USC § 103***

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

5. Claims 6, 14, 22 and 26-30 are rejected under 35 U.S.C. 103(a) as being unpatentable over Fromm in view of Enosh et al (WO 02/071,176 A2). The teachings of Fromm have been discussed above.

Re claims 6, 14, 22 and 26-30: Fromm has been discussed above but is silent with respect to the authentication request and the authentication response are formatted according to the 3-D Secure authentication protocol.

Enosh et al teaches a financial transaction system having a set of transaction facilitating protocols, each of which may be used either in conjunction with a 3D Secure system, environment or protocol, or on a standalone basis, within a conventional

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credit card processing system or environment, or with any other association standard which may be used in commerce (abstract).

It would have been obvious to an artisan of ordinary skill in the art at the time the invention was made to incorporate the 3D secure protocol system of Enosh et al into the system as taught by Fromm in order to provide Fromm with a more secure system with the capability of verifying the card holder ownership during an electronic commerce purchase transaction, preventing the credit card from fraudulent used by an unauthorized person in the event of lost/stolen.

#### ***Response to Arguments***

6. Applicant's arguments filed 26 January 2006 have been fully considered but they are not persuasive.

7. In response to the Applicant's argument to "... Fromm, however, fails to disclose or even remotely suggest the use of a database of payment account entries, wherein each entry comprises at least a first voice sample associated with a holder of said payment account. This database stores the holder's voice sample based on the payment account information. Fromm, instead, stores a user's voice print based on his data network address..." (page 11, 1<sup>st</sup> paragraph), the Examiner respectfully request the Applicant to further review Fromm wherein the payment method

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could be a bank account number or a credit card number and a deposit account (i.e., a bank account number) could be established when the user's voice is registered (col. 3, lines 12-15). Accordingly, the claimed limitation, given the broadest reasonable interpretation, the user's voice print of Fromm could be stored in the database based on a deposit/bank account and/or data network address and therefore, Fromm meets the claimed invention (see the rejection above).

8. In response to the Applicant's argument to Fromm fails to teach or suggest a step of determining whether the payment account participates in voice authentication services (page 12, 2<sup>nd</sup> paragraph), the Examiner respectfully request the Applicant to further review Fromm wherein the computer 105c verify the user's voice by transmitting the user's logical address/account for data network 101 to voice verification unit 103, the voice verification unit 103 then maps the received logical address/account to the prestored voice print (col. 3, lines 16-24) (i.e., at this point, if the user did not participate in the voice authentication services, the user's logical address/account and voice print would not be found/mapped). Accordingly, the claimed limitation, given the broadest reasonable interpretation, the step of finding/mapping the user's prestored voice print sequentially determining whether or

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not the user participates in voice authentication services and therefore, Fromm meets the claimed invention (see the rejection above).

9. In response to the Applicant's argument with respect to claims 7, 15 and 23 on page 13, the Examiner respectfully request the Applicant to further review claims 7, 15 and 23 wherein the claims 7, 15 and 23 recite for at least one (not all). In this case Fromm teaches the additional element that the authentication request includes a cardholder phone number data field (col. 3, lines 25-32) (i.e., one of the recited limitations in the claims 7, 15 and 23). Accordingly, the claimed limitation, given the broadest reasonable interpretation, Fromm meets the claimed invention (see the rejection above).

### **Conclusion**

10. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

The patents to Rissanen (US 5430827 A) and Lewis (US 6213391 B1) are cited as of interest and illustrate a similar structure to a system and method for secure telephone and computer transactions using voice authentication.



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11. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Uyen-Chau N. Le whose telephone number is 571-272-2397. The examiner can normally be reached on First Monday 5:30AM-1:30PM and Tues-Fri 5:30AM-3PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Michael G. Lee can be reached on 571-272-2398. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Uyen-Chau N. Le  
Primary Examiner  
Art Unit 2876

April 17, 2006